IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1926 OF 2005
IN
APPEAL (LODGING) NO.352 OF 2005
IN
ADMIRALTY SUIT NO.15 OF 1986

Eamaco Shipping Co.Pvt.Ltd. Appellants

versus

United Timber Traders Respondents

and

M.V.Samudra Maya & another Respondents

Mr.Ruben A. Fernandes for appellant.

Mr.V.K.Rambhadran with Mrs.Venita Daver i/by Prashant Pratap for respondent no.1.

CORAM : DR.S.RADHAKRISHNAN AND
S.C.DHARMADHIKARI, JJ.

DATE : 25th October 2005

PC :

1. Heard learned counsel for the appellant and respondents. By this Notice of Motion the appellant is seeking condonation of over five years delay. We have perused the affidavit in support of the Motion. In paragraph no.5 it is categorically mentioned that the appellant did not give instructions to their own advocate.

Hence the learned Advocate sought discharge in the matter. Accordingly advocate for the appellant before the Trial Court was discharged by the Trial Court on 4th October 1999. Thereafter the counsel for appellant fairly states that the appellant did not even inform the Court that the appellant was going to appear in person in the above matter before the Trial Court. It appears that an ex-parte decree came to be passed by this Court on 31st March 2000 and the appellant claims that they came to know of the order passed only on 7th December 2004 and thereafter this Notice of Motion is being taken out on 8th July 2005 and the above appeal has been lodged on 13th April 2005.

2. We find that the appellant has been absolutely callous and negligent in the above matter. We do not find any reasonable and sufficient cause shown for condonation of over five years delay. Hence Notice of Motion stands dismissed.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)